



Property Tax Advisory

Property Tax Advisories (PTA) are interpretive statements issued by the Department of Revenue under authority of RCW 34.05.230. PTAs explain the Department's policy regarding how tax law applies to a specific issue or specific set of facts. They are advisory for taxing officials and taxpayers; however, the Department is bound by these advisories until superseded by Court action, Legislative action, rule adoption, or an amendment to or cancellation of the PTA.

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Application of the Soldiers' and Sailors' Civil Relief Act of 1940 to Property Tax Administration

The Soldiers' and Sailors' Civil Relief Act of 1940, 50 U.S.C. Appx. § 501 et seq. (the "Act") has been in existence since 1940 and continues to apply to real and personal property tax matters as well as to other matters. It is commonly asked whether the Act provides relief for military personnel from paying real property taxes for the current year. This is **not** one of the provisions of the Act. The Act has no tax exemption provisions for real property. However, the Act does provide several forms of relief for the personal property of active military personnel.

Relief from the foreclosure or sale of a service member's property

The Act prevents certain property of an active military service member from being sold or foreclosed upon in order to enforce collection of property taxes. The Act provides that, unless a court first allows it, no action can be brought against a person in active military service to enforce the collection of taxes or assessments with respect to personal property, money, or credits, or real property owned and occupied for dwelling, professional, business, or agricultural purposes by a person in military service or the person's dependents at the commencement of the person's period of military service and still occupied by the person's dependents or employees. 50 U.S.C. Appx. § 560(2). When by law such property is sold or forfeited to enforce the collection of a tax or assessment, the military service member has the right to redeem or commence an action to redeem such property within six months after the termination of active service (or such longer period allowed by state law). 50 U.S.C. Appx. § 560 (3).

Relief from some penalties and interest on delinquent property tax obligations

Interest on delinquent property taxes (that became due prior to or during the period of military service) is limited to 6 percent per year, and no other penalty or interest can be incurred. 50 U.S.C. Appx. § 560 (4). The Department of Revenue has provided a form (REV 63 0025) for active military personnel to make application for relief from penalties and to limit interest to 6 percent per year.

Temporary relief from any tax or assessment through court proceedings

The taxpayer may apply to a court for a temporary stay of enforcement under 50 U.S.C. Appx. § 590 (1)(b). The court holds a hearing to determine whether the ability of the taxpayer to comply with the terms of his or her tax obligation has been materially affected by reason of his or her military service. If

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the court finds that it has, it may grant the taxpayer a stay of enforcement. The stay of enforcement is subject to payment of the balance of principal and accumulated interest due, in equal periodic installments, during the period of the stay. Please note that this stay of enforcement is not automatic. The burden is on the taxpayer to petition the court to obtain a court-ordered stay of enforcement.

Relief for personal property of nonresident military personnel

A fourth form of relief is provided by section 574 of the Act. This statutory provision provides that for purposes of taxation of any person, or of his or her personal property, the person will not be deemed to have lost a residence or domicile in any state, solely by reason of being absent from the state in compliance with military or naval orders. This provision effectively exempts from property taxation the personal property owned by nonresident military personnel as long as the property is not used in a trade or business.

Taxation of mobile homes owned by nonresident military personnel

With respect to a nonresident military member who owns a mobile home in Washington, the mobile home must be considered real property under **federal law** in order for Washington State to subject it to property tax. Section 574 does not provide an exemption for real property—only personal property, income, and gross income. There are several federal court cases where nonresident military personnel challenged state or local taxation of their mobile homes. In all of those cases, the tax was struck down because the mobile homes were exempt personal property. It is not enough that a nonresident military member's mobile home is hooked up to utilities, the mobile home has to be permanently affixed to the land in order for it to be subject to property taxes in this state.
